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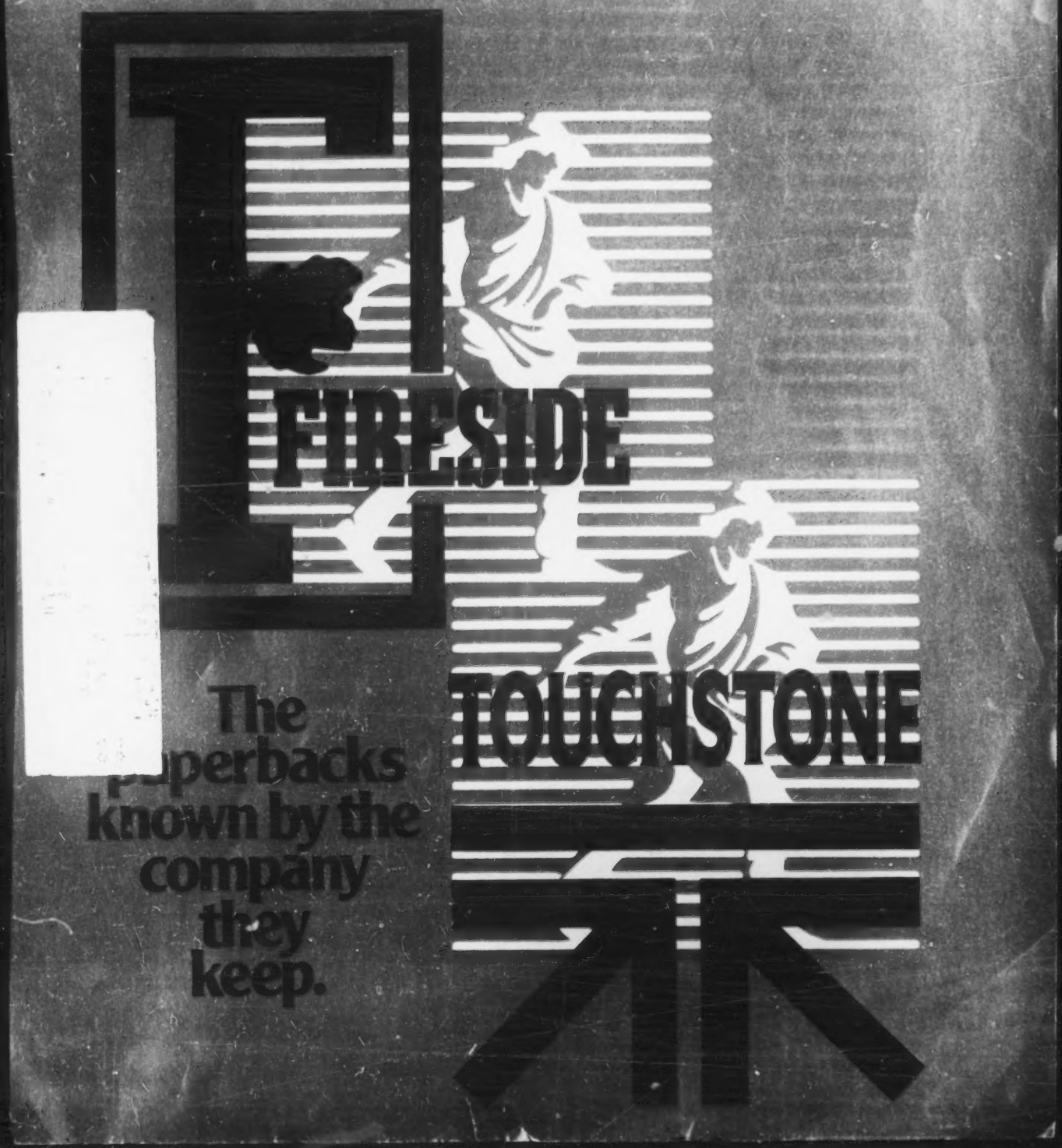

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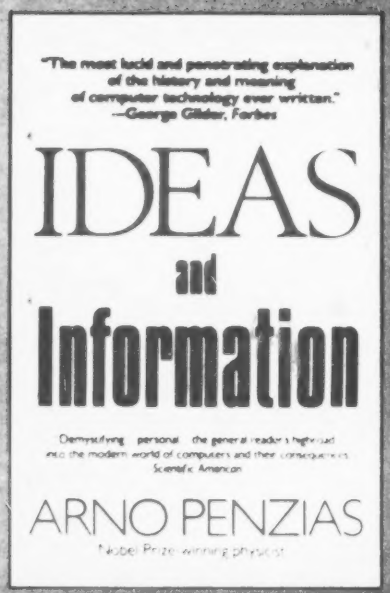
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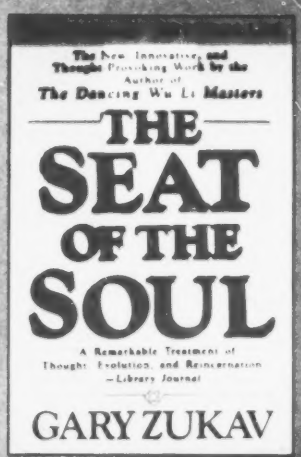
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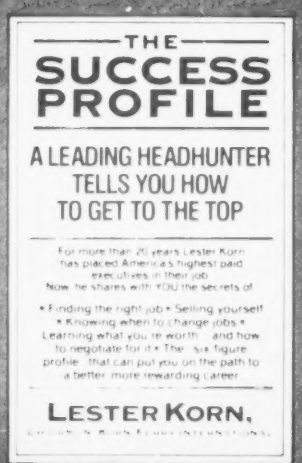
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FEATURES

University Presses: Highs and Lows 18

UPs seem to be flourishing, though some have abandoned much of their scholarly mandate; but can the good times last?

By Will Nixon

Design Does Matter: The 1989 AAUP Book Show .. 25

By Chandler B. Grannis

DEPARTMENTS

NEWS OF THE WEEK 10

Court Splits over Fair Use Language in Hubbard Case

Herman Joins Ticknor & Fields

Court Enjoins Dove's Distribution of *Lonesome Dove* Audio

Rodale Press Bails Out St. Mark's Bookstore In Manhattan

AAP Sales Report for July

ABA Decries Helms NEA Action

Coles of Canada Launches Upscale Line of Bookstores

Time-Life to Challenge Reader's Digest in Condensed Books Market

Reuben Joins St. Martin's

TRADE NEWS 28

Thunder's Mouth, Faber

Both Profiling Filmmaker Martin Scorsese

Announcements Addendum

Back to Press

BOOKSELLING 31

The New York International Gift Fair: The big trade show offered booksellers a chance to shop for new sidelines and to view the 1991 ABA convention site

INTERVIEWS 36

Phyllis Rose

FORECASTS 38

Fiction 38

Nonfiction 42

Paperbacks 48

How-To Books 52

COLUMNS

Highlights 7

Letters 8

Calendar 8

People 16

Rights 33

Southern Spotlight 34

Weekly Exchange 57

Paperback Bestsellers 62

Hardcover Bestsellers 64

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Court Enjoins Dove's Distribution Of 'Lonesome Dove' Audio

In the ongoing battle between Simon & Schuster and Dove Books on Tape for the spoken audio rights to Larry McMurtry's bestselling novel, *Lonesome Dove*, the U.S. District Court for the Central District of California has granted a preliminary injunction prohibiting Dove from shipping, selling or distributing an audio adaptation of the television miniseries soundtrack based on the book. The court also raised the amount of bond Simon & Schuster must post for potential damages to Dove from $20,000 to $300,000.

The ruling was made at a hearing in Los Angeles Federal Court on August 28 and will remain in effect until the case goes to trial. A trial date had not been set at press time.

The two companies have been engaged in a legal dispute over audio rights to *Lonesome Dove* (*PW*, May 12, 19, June 2, August 4) since last May, when Simon & Schuster filed a suit against Dove claiming that the company's audio version of the TV miniseries soundtrack of *Lonesome Dove*, which aired earlier this year, violated Simon & Schuster's exclusive copyright interests in the novel. Also named in the suit was Qintex Entertainment, the producer of the miniseries. At that time, the court issued a temporary restraining order enjoining Dove from distributing its audiocassette version of the miniseries soundtrack. Dove was not required to recall the 9000 tapes it had already shipped, however.

Simon & Schuster, which published the hardcover version of *Lonesome Dove* in 1985, maintains that it acquired the rights to publish an audio version of the book when it acquired the rights to publish the novel. Dove licensed the miniseries soundtrack from Qintex, which acquired the motion picture rights to *Lonesome Dove* in an agreement with Motown Productions. Dove and Qintex both claim that the contract granting the motion picture rights to Qintex entitled them to produce a derivative work, such as a teleplay or audio adaptation of the television series. Dove and Qintex both have filed countersuits against Simon & Schuster.

The court's decision to issue a preliminary injunction against Dove is considered a "major victory" by Simon & Schuster, according to Elizabeth McNamara, senior counsel for the company. "It upholds our firm conviction that our contract with Mr. McMurtry gives us the sole right to adapt the book on audiotape," she said. According to a company spokesperson, however, Simon & Schuster has postponed indefinitely its plans to release the "authorized" audio version of *Lonesome Dove*—a four-cassette abridgement of the novel, originally scheduled for release this fall.

As for Dove's reaction to the injunction, in-house counsel Jessica Kaye was not discouraged. "Naturally, we would have preferred that the motion be denied, but we haven't given up yet. Nothing's etched in stone until the case goes to trial."

In the meantime, both sides in the dispute have raised the possibility of an out-of-court settlement, according to McNamara of Simon & Schuster. "On the up side," said Dove's counsel Kaye, "there have been some settlement discussions. I think we both hope we can come to a reasonable solution."

In a separate suit, Simon & Schuster is seeking another preliminary injunction against Dove regarding the design of Dove's *Lonesome Dove* audiocassette jacket cover and its similarities to the cover art of Simon & Schuster's audiocassette package. A hearing regarding the cover issue is set for October 2

—JOANNE TANGORRA

Rodale Press Bails Out St. Mark's Bookstore in Manhattan

St. Mark's Bookstore, on the verge of going out of business, has been given a reprieve by Rodale Press—whose books are not even carried by the financially troubled New York City store, which specializes in small press and literary titles.

Robert Rodale

Robert Contant, co-owner of the store, said an agreement with the president of Rodale Press to provide temporary financial assistance has been reached and that negotiations for a long-term financial investment by Rodale are continuing.

President Robert Rodale told *PW* he has agreed to help the store in two phases. First is an immediate $50,000 loan in an escrow account to allow the store to restock. The second phase will involve a loan for a larger amount of working capital contingent on St. Mark's renegotiating its debt to publishers. Rodale is also asking for a minority equity interest in the store.

Debts at the popular East Village bookstore (News of the Week, Aug. 18) are estimated to be $375,000. The Rodale staff is also providing business advice to St. Mark's.

Rodale said he read about the store's troubles in the *Wall Street Journal* and went by to see the owners. "I was under the impression they needed $100,000 but I quickly realized they needed much more. So I gulped and said, you can count on me.

"I feel very strongly that people need to be able to get small press and intellectual books," said Rodale, whose own company publishes practical reference books on health, gardening and woodworking. Rodale noted that he had subsidized the publishing of small press books but never a bookstore. "I've never done anything like this before and probably never will again. They don't even carry Rodale books, but I'm not pressuring them to. I'm really counting on the other publishers to help out with settling the debt, and the signs look good. One way or another we'll survive."

Rodale Press, based in Emmaus, Pa., grossed $100 million in book sales in fiscal 1988. —CALVIN REID

AAP Sales Report for July

Category	% change, July*	% change, YTD*
Adult hardcover	-9.4	1.4
Adult paperback	8.1	10.5
Juvenile hardcover	21.5	14.8
Juvenile paperback	36.9	51.3
Univ. pr. hardcover	5.3	10.0
Univ. pr. paperback	-10.1	8.5
Bibles, etc.	41.9	8.6
Mass market paperback	10.3	3.1
Book club	-3.2	0.5
Mail order	-0.7	22.6
Sci-tech	6.8	0.2
College texts	22.2	19.4
School texts	13.7	13.5

*Percent changes measured against same time periods, 1988.